

two joint edges of two adjacent floor boards". It is the vertical locking groove and tongue which have upper abutment surfaces extending in a first plane essentially parallel to a principle plane of the floorboards and lower abutment surfaces extending in a second plane essentially parallel to the principle plane of the floorboards.

Claim 1 further defines "for horizontal mechanical joining of the joint edges" a locking groove formed in an underside of a first one of the floorboards and a portion projecting from a second one of the floorboards, the portion supporting a locking element cooperating with the locking groove. Those elements are for horizontal locking.

For the convenience of the Examiner, and without limiting the present invention to the disclosed embodiments, the Examiner's attention is directed to the embodiment illustrated in Figures 4 and 7, and corresponding elements from Figures 4 and 7 will be corresponded with the elements in claim 1. However, claim 1 is not limited to the disclosed embodiments. Specifically, the groove and tongue of claim 1 correspond to elements 36, 38 of Figure 4 of the preferred embodiment. The upper abutment surfaces correspond to surfaces 43, 49 of Figure 4 and the lower abutment surfaces correspond to elements 45, 52 of Figure 4 of the present application.

In the second paragraph of claim 1 the inner vertical plane and the outer vertical plane are defined. The inner vertical plane is represented by IP in Figure 4 and the outer vertical plane is represented by OP in Figure 4.

The space identified in the third paragraph of claim 1 is represented by S in Figure 4.

With regard to lines 8-15 of claim 1, the horizontal mechanical joining of claim 1 includes a locking groove which corresponds to groove 14 illustrated in Figure 7A and the locking element corresponds to element 8 illustrated in Figure 4 and Figure 7A.

In making the rejection of the claims, the Examiner appears to be confusing the vertical and horizontal mechanical joining systems. For example, the Examiner alleges that element 10 in *Moriau et al.* corresponds to the locking groove, which is part of the claimed horizontal mechanical joining system. However, the groove 10 in *Moriau et al.* corresponds to a system in *Moriau et al.* for effecting *vertical* locking of the boards. Similarly, the Examiner alleges that the element 9 of *Moriau et al.* corresponds to the claimed locking element, which is also part of the claimed horizontal mechanical joining system. However, the elements 9, 10 of *Moriau et al.* are for effecting vertical locking only, and do not in any way relate to horizontal mechanical joining of the boards in *Moriau et al.*. Accordingly, Applicant submits that the locking groove 10 and the locking element 9 of *Moriau et al.* do not relate to the horizontal mechanical joining of claim 1.

With regard to the lower abutment surfaces, the Examiner alleges that element 34 of *Moriau et al.* corresponds to the lower abutment surfaces of claim 1. However, element 34 of *Moriau et al.* is identified as a locking element, and appears to exclusively perform a horizontal locking function, not a vertical locking function. The claimed lower abutment surfaces relate to the vertical locking system. Accordingly, the Examiner has completely confused the horizontal locking mechanism with the vertical locking mechanism. As such, the concept of surface or element 34 in *Moriau et al.* being outside of the vertical plane is completely irrelevant

to claim 1, because element 34 in *Moriau et al.* relates to horizontal mechanical locking and the claimed lower abutment surface relates to vertical locking. Thus, at least for that reason alone, the rejections must be withdrawn.

As recognized by the Examiner in the sentence bridging pages 4 and 5 of the Official Action, *Moriau et al.* does not teach or suggest the claimed configuration which includes the space in the groove between the inner and outer vertical planes and below the tongue. To overcome this deficiency, the Examiner relies upon *Meyerson*.

It is important to note that *Meyerson* does not in any way relate to *floorboards* or a locking system for mechanical joining of *floorboards*. *Meyerson* discloses a building panel for use in roofs or walls. See column 2, lines 16-18 and column 3, lines 43-44. Accordingly, *Meyerson* relates to non-analogous art and is not properly combinable with *Moriau et al.*.

Furthermore, the Examiner's reliance upon *Meyerson* is not understood. Specifically, for the space allegedly disclosed in *Meyerson*, the Examiner refers to the opening above the edge 29 between parts 11 and 12. Element 29 is a cleat that is intended to hold the bottom edges 25, 28 together. Thus, there is no lower abutment surface at all in *Meyerson*. And, the Examiner has not identified where the inner and outer planes in *Meyerson* are.

In addition, the Examiner's alleged motivation for modifying *Moriau et al.* as taught by *Meyerson* is completely unclear. Specifically, it is not clear where in *Moriau et al.* it is alleged that the "space" disclosed by *Meyerson* should be located since *Meyerson* does not have a structure that corresponds in any way with that disclosed by *Moriau et al.*. The Examiner alleges that it would have been obvious to

make the proposed modification because "it would enable the easy angling insertion of the parts together as taught by *Meyerson*". However, the locking system of *Meyerson* appears to be far more complex and less convenient than that of *Moriau et al.*. Specifically, the system illustrated in Figure 11 of *Meyerson*, which is the embodiment relied upon by the Examiner, includes a cleat 29 for securing two adjacent panels together. Thus, it appears that it would be inconvenient to assemble the adjacent panels with cleats. Accordingly, using the techniques taught by *Meyerson* would clearly render the *Moriau et al.* device more difficult to use. Furthermore, there is no explanation as to where or how the Figure 11 embodiment of *Meyerson* would be used to modify *Moriau et al.*, in particular, where the alleged "space" would be. And, more importantly, there is no teaching or suggestion that there is any problem or trouble inserting the *Moriau et al.* panels together.

Accordingly, Applicant submits that there is no teaching or suggestion for modifying *Moriau et al.* as alleged by the Examiner.

In view of the foregoing remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 1-14 and 16-34.

Claim 15 has been rejected on the grounds of claim 1, and further in view of U.S. Patent No. 2,398,632, hereinafter *Frost*. However, the Examiner relies upon *Frost* for its alleged teaching of a beveled portion for guiding the tongue into the groove. Accordingly, *Frost* does not otherwise overcome the deficiencies set forth above with respect to the combination of *Moriau et al.* and *Meyerson*.

Accordingly, claim 15 is also patentable over the applied prior art.

In view of the foregoing remarks, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections.

Respectfully submitted,

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